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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,830	01/22/2004	Kenneth Bruce Flaniken	P2004/001	7692
7590	01/26/2006		EXAMINER	
Mr. Martin A. Weeks 1909 Aladdin Norman, OK 73072			HOEY, ALISSA L	
			ART UNIT	PAPER NUMBER
			3765	
DATE MAILED: 01/26/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

**Application No.**

10/763,830

**Applicant(s)**

FLANIKEN, KENNETH BRUCE

**Examiner**

Alissa L. Hoey

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/03/05 has been entered.

### ***Response to Amendment***

2. This is in response to amendment received on 11/03/05. Claims 21, 26, 27 28 and 32 have been amended. The specification received on 11/03/05 is different from the originally filed specification. The originally filed specification has a repeated page 10 and no page 12. A new specification needs to be submitted with proper amendments underlining or crossing-out as is appropriate. Due to the missing page 12, Applicant is advised to make sure that no new matter is presented that was not originally disclosed.

### ***Claim Objections***

3. Claim 36 is objected to because of the following informalities: there is no antecedent basis for "the head-and-face cover", should "head-and-face cover" be "ski mask"? Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 21-30 and 32-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Way (US 6,665,878).

In regard to claim 21, Way teaches a garment for a person comprising a garment body portion that substantially covers a torso of the person. A hood attached to the garment body portion and a rollable head-and-face cover attached to the garment. Such that the hood is external to the head-and-face cover and the head-and-face cover resiliently engages a head and face of the person when the head-and-face cover is in a deployed position. The head-and-face cover being a unitary cover that substantially covers the top of the head, the back of the head, the sides of the head and a substantially portion of the face of the person.

However, Way fails to teach the head-and-face cover being attached to the hood.

It would have been obvious to have provided the head-and-face cover being attached to the hood or to the body of the garment, because as long as the head-and-face cover is attached to the garment in a way that places the hood over the head-and-face cover when both are deployed the attachment of the head-and-face cover can be chosen from either of the hood of the body of the garment and as supported in Applicant's specification in paragraph 0006.

In regard to claim 22, Way teaches the head-and-face cover capable of being deployed when the hood is in the up position. The hood is positioned over a top and back of the head-and-face cover to form an insulating air layer about the head of the person between the head-and-face cover and the hood.

In regard to claim 23, Way teaches the head-and-face cover operates independently from the hood. The head-and-face cover may be deployed or not deployed irrespective of the position of the hood. The hood may be positioned in the up or down position irrespective of the deployment or non-deployment of the head-and-face cover.

In regard to claim 24, Way teaches a pocket attached to the hood such that the head-and-face cover is rolled and crumpled into a compact mass for insertion into the pocket for compact storage of the head-and-face cover when the head-and-face cover is not in the deployed position.

In regard to claim 25, Way teaches the pocket having a fastener to further secure the head-and-face cover in the pocket.

In regard to claim 26, Way teaches the pocket being a piece of material attached to the garment body portion along sides and a bottom of the pocket and wherein the pocket has an open top to receive the head-and-face cover

However, Way fails to teach the pocket attached to the hood.

It would have been obvious to have provided the pocket attached to the hood or the garment body, because as long as the pocket is provided on the jacket to store the

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head-and-face cover the pocket can be located on the hood of the garment body and as supported in Applicants specification in paragraph 0039.

In regard to claim 27, Way teaches a garment for a person, the garment comprising a body portion to substantially cover a torso of the person. A unitary head-and-face cover to substantially cover and resiliently engage a head and face of the person to shield the head and face from wind. The head-and-face cover being in a deployed position when the head-and-face cover is covering the head and face of the person. The head-and-face cover substantially covers the top of the head, the back of the head, the sides of the head and a substantial portion of the face of the person. A hood attached to the garment body portion. A pocket attached to the garment body such that the head-and-face cover is rolled and crumpled into a compact mass for insertion and storage of the head-and-face cover when the head-and-face cover is not in the deployed position.

However, Way fails to teach the pocket being attached to the inside of the hood.

It would have been obvious to have provided the pocket attached to the hood or the garment body, because as long as the pocket is provided on the jacket to store the head-and-face cover and allow the head-and-face cover to be deployed independently of the hood the pocket can be located on the hood of the garment body and as supported in Applicants specification in paragraph 0039.

In regard to claim 28, Way teaches a jacket for snowboarding and skiing. The jacket would inherently have water impermeable portions if not entirely water impermeable.

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In regard to claim 29, Way teaches the head-and-face cover being constructed from an expandable material that resiliently engages the head and face of the person when the head-and-face cover is deployed.

In regard to claim 30, Way teaches the pocket being a piece of material attached to the garment body along the pocket's sides and bottom and wherein the pocket has an open top to receive the head-and-face cover.

However, Way fails to teach the pocket being attached to the hood.

It would have been obvious to have provided the pocket attached to the hood or the garment body, because as long as the pocket is provided on the jacket to store the head-and-face cover and allow the head-and-face cover to be deployed independently of the hood the pocket can be located on the hood of the garment body and as supported in Applicants specification in paragraph 0039.

In regard to claim 32, Way teaches a garment for a person comprising a garment body portion that substantially covers a torso of the person. A hood attached to the garment body portion wherein the hood covers a back and a top of a head of the person when the hood is in the up position. The hood dangles from behind an upper back of the person when the hood is in the down position. A ski mask attached to the garment body such that the hood is external to the ski mask. The ski mask is a unitary mask that substantially covers the top of the head, the back of the head, the sides of the head and a substantial portion of the face of the person.

However, Way fails to teach the ski mask attached to the inside of the hood.

It would have been obvious to have provided the ski mask attached to the interior of the hood or to the garment body, because as long as the ski mask is attached to the jacket so that the hood is external to the ski mask and as supported in Applicant's specification in paragraph 0006.

In regard to claim 33, Way teaches the ski mask resiliently engaging a head and face of the person when the ski mask is in a deployed position.

In regard to claim 34, Way teaches the ski mask is rollable in a direction substantially parallel to the spine of the person.

In regard to claim 35, Way teaches the pocket being a piece of material attached to the garment body along periphery of the pocket and wherein the pocket has an open top to receive the ski mask.

However, Way fails to teach the pocket being attached to the hood.

It would have been obvious to have provided the pocket attached to the hood or the garment body, because as long as the pocket is provided on the jacket to store the head-and-face cover and allow the head-and-face cover to be deployed independently of the hood the pocket can be located on the hood of the garment body and as supported in Applicants specification in paragraph 0039.

In regard to claim 36, Way teaches at least one of the garment, the head-and face cover and the pocket are inherently waterproof, since the garment of Way is a snowboarding or skiing garment which are waterproof.

6. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Way in view of Duyn (US 6,370,692).



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Way teaches a garment as described above in claim 27. However, Way fails to teach a drawstring to secure the hood by tying the drawstring around a chin of the person.

Duyn teaches a hood with a drawstring to secure the hood to the person by tying the drawstring around their chin.

It would have been obvious to have provided the garment of Way with the drawstring of Duyn, since the garment of Way provided with a drawstring in it's hood would provide for selective adjustment of the hood opening to properly fit the person wearing the garment.

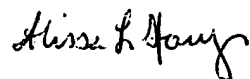
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (571) 272-4985. The examiner can normally be reached on M-F (8:00-5:30)Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alissa L. Hoey  
Primary Examiner  
Technology Center 3700